

nonpool plants are further defined as follows:

(a) *Other order plant* means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) *Producer-handler plant* means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) *Exempt distributing plant* means a distributing plant operated by a governmental agency.

(d) *Partially regulated distributing plant* means a nonpool plant that is a distributing plant and is not an other order plant, a producer-handler plant or an exempt distributing plant.

(e) *Unregulated supply plant* means a nonpool plant that is a supply plant and is not an other order plant, a producer-handler or an exempt distributing plant.

§ 1006.9 Handler.

Handler means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it causes to be diverted from a pool plant to a nonpool plant for the account of such cooperative association;

(c) A cooperative association with respect to milk of its producer-members which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association. The milk for which a cooperative association is the handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which it was delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler; or

(f) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant.

§ 1006.10 Producer-handler.

Producer-handler means any person who meets all the following conditions:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in

accordance with the requirements set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is at his sole risk and under his complete and exclusive management and control; and

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and from which there is route disposition during the month in the marketing area pursuant to the following requirements:

(1) No fluid milk products are received at such plant or by him at any other location, except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) Fluid milk products (other than whole milk) from pool plants in an amount that is not in excess of the lesser of 5,000 pounds or 5 percent of his Class I sales during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive or otherwise handle fluid milk products for any other person; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

§ 1006.11 [Reserved]

§ 1006.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk in compliance with the inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted pursuant to § 1006.13 from a pool plant to a nonpool plant.

(b) The term "producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) The operator of an exempt distributing plant; or

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(3) Any person with respect to milk produced by him that is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I milk under the provisions of such other order.

[41 FR 43155, Sept. 30, 1976]

§ 1006.13 Producer milk.

Producer milk means the skim milk and butterfat contained in milk:

(a) Received at a pool plant directly from a producer or a handler described in § 1006.9(c): *Provided*, That if the milk received at a pool plant from a handler described in § 1006.9(c) is purchased on a basis other than farm weights, the amount by which the total farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be producer milk received by the handler described in § 1006.9(c) at the location of the pool plant; or

(b) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) Such milk shall be deemed to have been received by the diverting handler at the plant to which diverted;

(2) Not less than 10 days' production of the producer whose milk is diverted is physically received at a pool plant: *Provided*, That any delivery during the current month from such producer to another order plant regulated by the order that regulated such pool plant in the prior month shall be counted towards meeting the 10-day production requirement;

(3) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk;

(4) A cooperative association may divert for its account the milk of a producer. The total quantity of such milk so diverted by a cooperative that exceeds the following specified applicable percentage of producer milk that the cooperative association caused to be delivered to and physically received at pool plants during the month shall not be producer milk:

(i) 40 percent in March–June,

(ii) 25 percent in December–February, and

(iii) 20 percent in July–November;

(5) The operator of a pool plant other than a cooperative association may divert for its account any milk of producers that is not under the control of a cooperative association that is diverting milk during the month pursuant to paragraph (b)(4) of this section. The total quantity so diverted by the operator of the pool plant that exceeds the following specified applicable percentage of milk physically received at such plant during the month that is eligible to be diverted by the plant operator shall not be producer milk:

(i) 40 percent in March–June,

(ii) 25 percent in December–February, and

(iii) 20 percent in July–November;

(6) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to paragraphs (b) (4) and (5) of this section. If the handler fails to make such designation, milk diverted on the last day of the month, then the second-to-last day of the month, and so on, shall be excluded until all diversions in excess of the prescribed limit are accounted for.

[37 FR 17725, Aug. 30, 1972, as amended at 54 FR 6363, Feb. 10, 1989]

EFFECTIVE DATE NOTE: At 57 FR 61780, Dec. 29, 1992, § 1006.13 was amended by suspending paragraph (b)(2) indefinitely, effective Dec. 1, 1992.

§ 1006.14 Other source milk.

Other source milk means the skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk fluid cream products from any source except:

(1) Producer milk;

(2) Such products from pool plants; and

(3) Such products in inventory at the beginning of the month;

(b) Receipts of packaged fluid cream products and eggnog from other plants;

(c) Products, other than fluid milk products and fluid cream products, from any source (including those produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and